In The

SUPREME COURT OF THE UNITED STATES

October Term, 1948

Number 27

AMERICAN FEDERATION OF LABOR, ARIZONA STATE FEDERATION OF LABOR, PHOENIX BUILDING AND CONSTRUCTION TRADES COUNCIL, ET AL., APPELLANTS,

V.

AMERICAN SASH & DOOR COMPANY, D. A. BREWER, W. B. STEVENS, ET AL.

Appeal from the Supreme Court of the State of Arizona

Number 47

LINCOLN FEDERAL LABOR UNION NO. 19129, AMERICAN FEDERATION OF LABOR, NEBRASKA STATE FEDERATION OF LABOR, ET AL., APPELLANTS,

V.

NORTHWESTERN IRON AND METAL COMPANY, DAN GIEBELHOUSE, STATE OF NEBRASKA AND NEBRASKA SMALL BUSINESS MEN'S ASSOCIATION.

Appeal from the Supreme Court of the State of Nebraska

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Appeal from the Supreme Court of North Carolina

BRIEF OF APPELLEES, NORTHWESTERN IRON & METAL COMPANY, AND DAN GIEBELHOUSE.

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OPINION BELOW.

The opinion of the Supreme Court of the State of Nebraska (No. 47) (R. 52-78), is reported under the name of *Lincoln Federal Labor Union No. 19129* v. *Northwestern Iron and Metal Company, et al.*, 149 Neb. 507, 31 N. W. (2d) 477.

JURISDICTION.

The appellants, in paragraph 35 of their petition (R. 16-20) filed in the District Court of Lancaster County, Nebraska, summarized the Federal questions involved and alleged that Sections 13, 14, and 15 of Article XV of the Constitution of the State of Nebraska violated the following provisions of the Constitution of the United States of America as amended.

a. The First Amendment of the Constitution of the United States.

b. The Fourteenth Amendment of the Constitution of the United States.

c. Article I, Section 10 of the Constitution of the United States.

d. Article VI of the Constitution of the United States.

e. Title 29, Sections 151 to 166 of the United States Code Annotated, known as the National Labor Relations Act.

By reason of the allegations above set forth, the jurisdiction of this court is invoked under Section 237 of the Judicial Code as amended (28 U. S. C. A. 344). On May 24, 1948, this court noted probable jurisdiction (R. 86).

STATEMENT OF THE CASE.

On July 26, 1946, the Northwestern Iron and Metal Company, a corporation with its principal place of business in Lincoln, Nebraska, and the Lincoln Federal Labor Union, No. 19129, entered into a written agreement (R. 31-37), which among other things contained the following provision: "* * * Whenever any employee shall cease to be a member in good standing with the union, and when the union shall have given written notice to that effect, the company agrees to discharge said employee from its services at the end of the work week after said notice of failure to maintain good standing in the union is received" (R. 33).

The people of the State of Nebraska, on November 5, 1946, by a sufficient majority, adopted a constitutional amendment which was proclaimed by the Governor of the State of Nebraska as effective on December 11, 1946.

This constitutional amendment was designated as Sections 13, 14, and 15 of Article XV of the Constitution of the State of Nebraska.

The amendment is as follows:

"Section 13.

"No person shall be denied employment because of membership in or affiliation with, or resignation or expulsion from a labor organization or because of refusal to join or affiliate with a labor organization; nor shall any individual or corporation or association of any kind enter into any contract, written or oral, to exclude persons from employment because of membership in or non-membership in a labor organization.

"Section 14:

"The term, 'Labor organization' means any organization of any kind, or any agency or employee representation committee or plan, which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

"Section 15:

"This Article is self-executing and shall supersede all provisions in conflict therewith; legislation may be enacted to facilitate its operation but no law shall limit or restrict the provisions hereof." (R.15-16)

On February 10, 1947, the appellant, Lincoln Federal Labor Union No. 19129, gave written notice to the defendant, Northwestern Iron and Metal Company, a corporation, that Dan Giebelhouse, one of the employees of the Northwestern Iron and Metal Company, and a member of the Lincoln Federal Labor Union No. 19129, had ceased to be a member in good standing with the Lincoln Federal Labor Union No. 19129, and asked that the Northwestern Iron and Metal Company discharge said employee from the services of said company, pursuant to the provision of the contract entered into between Lincoln Federal Labor Union No. 19129 and Northwestern Iron and Metal Company as above set forth.

Upon receipt of said written notice the appellee, Northwestern Iron and Metal Company, notified the appellant, Lincoln Federal Labor Union No. 19129, that it refused to discharge the said Dan Giebelhouse because in doing so it would violate Sections 13, 14 and 15 of Article XV of the Constitution of the State of Nebraska, which was at said time in full force and effect.

The appellants herein then filed a suit of a civil nature to obtain a declaratory judgment as to the legality of Sections 13, 14 and 15 of Article XV of the Constitution of the State of Nebraska. Said appellants claimed that the above sections of the Constitution of the State of Nebraska violated certain provisions of the Constitution of the United States as amended. Said petition also prayed for certain equitable relief (R. 1-20).

The appellee, Northwestern Iron and Metal Company, Dan Giebelhouse (R. 41) and Nebraska Small Businessmen's Association (R. 40), filed a motior f r a judgment on the pleadings. The appellee, the State of Nebraska, filed a demurrer (R. 40). The motion of the appellee, Northwestern Iron and Metal Company, and Dan Giebelhouse contained the following:

> "Wherefore these moving defendants move that the court enter a judgment in this case declaring, finding and adjudging that:
>
> "1. The said Amendment to the Constitution of the State of Nebraska adopted by the vote of the people of said State on November 5, 1946, and proclaimed by the governor to be in full force and effect on December 12, 1946, and fully set forth in Paragraph 32, Pages 15 and 16 of plaintiffs' petition is valid and binding and does not contravene any provisions in the Constitution of the United States of America.
>
> "2. That the said Constitutional Amendment of the State of Nebraska does not contravene and does not deny to the plaintiffs the rights guaranteed in the First Amendment to the Constitution of the United States.
>
> "3. That the said Constitutional Amendment of the State of Nebraska does not contravene and does

not deny to the plaintiffs the rights guaranteed by Article I, Section 10 of the Constitution of the United States.

"4. That the said Constitutional Amendment of the State of Nebraska does not contravene and does not deprive the plaintiffs of any of the rights guaranteed to said plaintiffs in the National Labor Relations Act, Title 29, Sections 151-166, inclusive, United States Code Annotated, and does not violate the public policy and laws of the United States to prevent any sort of discrimination in employer and employee relationships.

"5. That the said Constitutional Amendment of the State of Nebraska does not contravene and does not deny any of the rights guaranteed to the plaintiffs in Article VI of the Constitution of the United States.

"6. That the said Constitutional Amendment of the State of Nebraska does not contravene and does not deny to the plaintiffs any of the rights guaranteed to them by the Fourteenth Amendment to the Constitution of the United States.

"7. That the said Constitutional Amendment of the State of Nebraska does not constitute class legislation, but is all inclusive to all employers and employees of said state.

"8. That Paragraph 3 of the contract entered into by and between the plaintiff, Lincoln Federal Labor Union #19129 and the defendnt, Northwestern Iron and Metal Company, which is set forth in Paragraph 17, page 9 of the plaintiffs' petition, is, since the 12th day of December, 1946, illegal, invalid and unenforcible by reason of the adoption of said Amendment to the State Constitution by the people of the State of Nebraska.

"9. That the costs of this suit be taxed against the plaintiffs." (R.42-43)

On July 7, 1947, Honorable Ralph P. Wilson, one of the judges of the District Court of Lancaster County, Nebraska, entered a declaratory judgment in this action (R. 44-46), sustaining the motions and the demurrer, and held:

> 3. "that said amendment does not violate nor conflict with provisions of the constitution of the United States.
>
> "4. That the said amendment of the constitution of the State of Nebraska does not conflict with, impair, or contradict any part of the National Labor Relations Act, nor the Labor Management Relations Act, 1947, and does not deprive the plaintiffs (appellants) of any of the rights guaranteed to said plaintiffs by the said acts.
>
> "5. That said amendment is in all respects valid." (R.45).

The motion for a new trial was overruled and the appellants, complying with rules and statutory requirements appealed from said decision to the Supreme Court of the State of Nebraska.

On March 19, 1948, the Supreme Court of the State of Nebraska affirmed the judgment of the district court (R. 52-78).

The appellants appealed from the decision of the Supreme Court of Nebraska to this court, and on May 24, 1948, this court noted probable jurisdiction.

STATEMENT.

At the outset, we want to inform this court that the appellee, Dan Giebelhouse, is no longer employed by the

Northwestern Iron and Metal Company. He left his employment voluntarily. While we believe that this does not make this case moot, yet we want the court to be informed of this fact.

In this brief, I have omitted the question raised by the appellants, that the constitutional amendment to the Constitution of the State of Nebraska, involved in this litigation, is invalid because it conflicts with certain provisions in the National Labor Relations Act commonly known as the Wagner Act. While this action was pending the Labor Management Relations Act, 1947, commonly known as the Taft-Hartley Law, was enacted by the Congress of the United States.

In the brief filed by the appellants in the Supreme Court of the State of Nebraska, they admitted that for the time being at least, the question of the conflict between the constitutional amendment to the Constitution of the State of Nebraska and the National Labor Relations Act, was disposed of by the provisions in the Labor Management Relations Act, 1947.

We feel that that is still a fact. However, in the appellants' brief in this court, reference was made to the National Labor Relations Act. We feel that any contention by the appellants that the amendment to the Constitution of the State of Nebraska, involved in this litigation, is in conflict with the National Labor Relations Act, is fully and completely answered in the opinion of the Supreme Court of the State of Nebraska (R. 53,58,263), and we refrain from repeating it.

SUMMARY OF ARGUMENT.

The appellees believe that the regulation of employer and employee relationship is a proper subject for state legislation; that such legislation comes within the police power of the state; that the constitutional provision of the Nebraska Constitution under attack does not prohibit the existence of unions, and does not violate any one of the provisions of the United States Constitution as claimed by the appellants. That the constitutional provision under attack is a regulatory one, and tends to regulate the relationship of employer and employee; that all regulations tend to impinge upon some of the rights that parties may have had prior to the regulation; that there can be no regulation without some form of prohibition as to some of the rights that the parties had prior to the regulation.

The appellees believe that the constitutional provision under attack is reasonable and necessary; that the people of the State of Nebraska, by a large majority, voted in favor of this constitutional provision after a full discussion prior to the date that the provision was voted upon; that the constitutional provision under attack does not violate any of the provisions of the Constitution of the United States, and therefore is valid and constitutional.

ARGUMENT.

A General Demurrer Only Admits Facts Well Pleaded.

The appellants claim that all the statements in their petition were admitted by the demurrer and by the motions for judgment filed by the appellees. That is not true in Nebraska. A general demurrer in Nebraska:

"admits all allegations of fact in the pleading to which it is addressed, which are issuable, relevant, material, and well pleaded; but does not admit the conclusions of the pleader, except when supported by, and necessarily result from the facts pleaded. It does not admit inferences of the pleader from the facts alleged, nor mere expression of opinion, nor theories of the pleader, nor allegations of the pleader as to what will happen in the future, nor arguments; nor allegations contrary to facts of which allegations judicial notice is taken or which are contrary to law. 41 Am. Jur. Sec. 244, Page 463, Louisville & Nashville R. Co. v. Palmes, 109 U. S. 244, 3 S. Ct. 193, 27 L. Ed. 922."

Johnson v. *Marsh*, 146 Neb. 257, 19 N. W. (2d) 366, 369, approved in *Lincoln Federal Labor Union* v. *Northwestern Iron & Metal Co.*, 149 Neb. 507, 31 N. W. (2d) 477, 480.

The same is true as to motions for judgment.

This court, therefore, can take into account only the facts in the petition that are issuable, relevant, material and well pleaded. This court must ignore in the petition all inferences of the pleader, all expressions of opinions, all theories of the pleader not supported by and necessarily result from the facts pleaded, all allegations of the pleader as to what will happen in the future, all allegations that are contrary to facts of which judicial notice is taken, or which is contrary to law.

A Court Must Not Concern Itself With the Wisdom of a Legislative Act, or a Constitutional Amendment in Deciding the Constitutionality of the Act or Amendment.

In deciding whether a certain statute or a constitutional provision of a State Constitution conflicts with any

provision of the Federal Constitution, there are several cardinal principles which this court has often stated as a guide:

One of the principles that this court uses in deciding such a matter is that the court cannot concern itself with the wisdom of the act or amendment. The question whether the constitutional amendment is economically sound, or whether it will tend to deprive the union of certain powers that it may obtain through contracts, if this constitutional amendment were not adopted, is of no concern to this court. The wisdom or soundness economically or politically of a constitutional amendment is not within the province of the court.

In the case of *West Coast Hotel Company* v. *Parrish*, 81 L. Ed. 455, 57 S. Ct. 578, 100 A. L. R. 1330, the court stated:

> "The legislature had the right to consider that its minimum wage requirements would be an important aid in carrying out its policy of protection. The adoption of similar requirements by many States evidences a deepseated conviction both as to the presence of the evil and as to the means adopted to check it. Legislative response to that conviction cannot be regarded as arbitrary or capricious and that is all we have to decide. Even if the wisdom of the policy be regarded as debatable and its effects uncertain, still the legislature is entitled to its judgment."

The Supreme Court of the United States, in the case of *Stephen* v. *Binford*, 287 U. S. 251, 77 L. Ed. 288, 87 A. L. R. 721, stated:

> "We need not consider whether the act in some other aspect would be good or bad. It is enough to support its validity that, plainly one of its aims

is to conserve the highways. If the legislature had other or additional purposes which, considered apart, it had no constitutional power to make effective, that would not have the result of making the act invalid * * *"

In the case of *Allen-Bradley Local* 1111 v. *Wisconsin Employment Relations Board*, 295 N. W. 791, the court stated:

"We wish to point out again that the court has no jurisdiction or authority to pass upon the policy involved in this or any other action. Questions of public policy are primarily for the legislature, if the provisions of this act are too restrictive as claimed in the brief. The court may not deal with that feature of the act if it otherwise is within the field of constitutional legislative action. In upholding the law against attacks upon its validity on the ground that it is unconstitutional, the court neither commends nor criticizes the public policy involved. If the act is too restrictive, the remedy lies with the legislature and not with the court."

In the case of *Arizona Copper* v. *Hammer*, 250 U. S. 400, 63 L. Ed. 1058, 6 A. L. R. 1537, Justice Pitney, in delivering the opinion of the court, in that case stated:

"Some of the arguments submitted to us assail the wisdom and policy of the act because of its novelty, because of its one-sided effect in depriving the employer of defenses, while giving him (as is said) nothing in return, leaving the damages unlimited, and giving to the employee the option of several remedies; as tending not to obviate but to promote litigation; and as pregnant with danger to the industries of the state. With such considerations this court cannot concern itself. Novelty is not a constitutional objection, since, under constitutional forms of government, each state may have a legis-

lative body endowed with authority to change the law. In what respects it shall be changed, and to what extent, is in main confided to the several states; and it is to be presumed that their legislatures, being chosen by the people, understand and correctly appreciate their needs. The states are left with a wide range of legislative discretion, notwithstanding the provisions of the 14th Amendment; and their conclusions respecting the wisdom of their legislative acts are not reviewable by the courts."

In the case of *Lennox* v. *Housing Authority of the City of Omaha*, 137 Neb. 582, 290 N. W. 451, 291 N. W. 100, Justice Carter stated:

> "Much is said in the briefs about the wisdom of this legislation, a subject with which we cannot concern ourselves. The wisdom of legislation is a matter for legislative and not judicial decision."

This court in deciding this case, cannot, and I am sure, will not concern itself with the political and economic wisdom of the constitutional amendment in question. The appellants consumed a considerable portion of their brief in an effort to show that the act is unwise and that it will do considerable harm to the appellants. We feel that the cases cited above, and the very many cases in which the same issue was raised, and which were not cited, clearly show that neither of the above are any criterion as to the validity of the constitutional amendment under attack.

Every Presumption Should be Entered Into by the Court in Favor of the Vaidity of a Constitutional Amendment.

The second cardinal principle that must be kept in mind in this case is that every possible presumption

should be entered into in favor of the validity of the constitutional amendment. This court, in *National Labor Relations Board* v. *Jones & Laughlin Steel Company*, 301 U. S. 1, 57 S. Ct. 615, 81 L. Ed. 893, 108 A. L. R. 1352, held:

> "The cardinal principle of statutory construction is to serve and not to destroy * * * as between two possible interpretations of the statute, by one of which it would be unconstitutional, and by the other valid. Our plain duty is to adopt that which will save the act."

The Supreme Court of the United States, in the case of *Duplex Printing Press Co.* v. *Deering*, 254 U. S. 443, 41 S. Ct. 172, 16 A. L. R. 196, through Justice Brandeis, held:

> "All rights are derived from the purposes of the society in which they exist; above all rights rises duty to the community, the conditions developed in industry, may be such that those engaged in it cannot continue their struggle without danger to the community. But it is not for the judges to determine whether such conditions exist, nor is it their function to state the limits of permissible contest and to declare the duties which the new situation demands."

Keeping in mind these two cardinal principles, that it is the duty of the court to save and not to destroy, that all presumptions should be in favor of the constitutionality of an act, not against it, and keeping in mind that the wisdom of an act, whether economically or politically, must not be taken into consideration in adjudging its validity, will eliminate the greater portion of the plaintiff's complaint, as to the validity of the constitutional amendment under attack.

The Constitutional Provision Under Attack is Within the Police Power of the State. It is Reasonable and is Related to the Public Welfare. The Constitutional Provision of the Nebraska Constitution Does Not Violate Any Part of the Constitution of the United States.

The appellants have raised many issues and discussed many questions in their effort to convince this court that the amendment to the Constitution of the State of Nebraska, which has been labeled both "The right to Work" amendment and the "Anti-Closed Shop" amendment, violates several provisions of the Constitution of the United States and therefore is void. I believe, however, that after a careful analysis of the claims of the appellants this court will reach the conclusion that in fact only the two following issues are involved:

1. Is the constitutional amendment in question within the police power of the State?

2. Is it reasonable and does it have a relationship to the public welfare?

If the answer to both issues is in the affirmative then clearly the amendment is constitutional and valid. If, however, the answers to any one of the above two issues is in the negative, then the amendment is unconstitutional and void.

There can be no argument, I believe, that each state has the power and authority to adopt any law or constitutional amendment which properly comes within its police power without any restraint by the Constitution of the United States.

The Supreme Court of the United States, in the case of *Reed* v. *State of Colorado*, 187 U. S. 137, 148 L. Ed. 108, held:

> "It should never be held that Congress intends to supersede, or by its legislation suspend, the exercise of the police powers of the states, even when it may do so, unless its purpose to effect that result is clearly manifested. This court has said—and the principle has been often reaffirmed—that in the application of the principle of supremacy of an act of Congress in a case where the state law is but the exercise of a reserved power, the repugnance or conflict should be direct and positive, so that the two acts could not be reconciled or consistently stand together. Sinnot v. Davenport, 22 How. 227, 243, 16 L. Ed. 243, 247."

The Supreme Court of the State of Nebraska, in the case of *Placek* v. *Edstrom*, 148 Neb. 79, 26 N. W. (2d) 489, held:

> "No provision of the constitution of the United States has ever intended to take from the States the right to properly exercise their police powers which generally extend to all the great public needs which are lawfully recognized as immediately necessary to promote the general welfare."

Likewise, the Supreme Court of the State of Minnesota, in the case of *Abeln, et al.* v. *City of Shakopee, et al.*, 28 N. W. (2d) 642, stated:

> "The states were not deprived of their police power by the Federal Constitution as originally adopted and no restraints were imposed upon such power by the adoption of the XIV Amendment."

Admitting that this state has authority to adopt any act which comes within its police power, the next ques-

tion that presents itself is whether the constitutional amendment attacked does come within the police power of the state.

That the relationship between the employer and employee is of great public interest is now axiomatic. This relationship affects the health, the wealth, and the welfare of the citizens of the community, of the state and of the nation.

In the case of *Thomas v. Collins*, 323 U. S. 516, 532, 89 L. Ed. 430, the Supreme Court of the United States held:

> "That the State has power to regulate labor unions with a view to protecting the public interest, is, as the Texas Court said, hardly to be doubted. They cannot claim special immunity from regulation."

Prior to the turn of this century with the sparsely populated communities, with industries just beginning to expand, with distant travel limited by the crude locomotive of that day and local travel limited by horse and buggy, when labor was poorly organized, it could have been forcefully argued that the relationship between the employer and the employee were purely a private matter between the contracting parties and that government had no right to interfere. In fact the majority of the court decisions of that day so held. However, with our rapid mechanical development which has brought about large industry, with our present state and federal labor laws, that concept has changed. Today when a shut down in a single industry in any part of the United States can and usually does affect almost every citizen in the entire country. When a strike by the miners stops in-

dustry everywhere. When the shut down of electrical power, due to a labor dispute, deprives the entire country of light and of all the other uses to which electric power is now put to in the home, schools, hospitals and industry. When there is employer and employee disturbance in any field, and in any locality, the entire nation suffers. Then there can be no question that the relationship of employer and employee is virtually the interest of every citizen, is of great public interest, and its control comes within the domain of the police power of the state.

Both the state and federal governments have for some time recognized this fact and a considerable amount of legislation has been adopted to regulate the relationship between the employer and the employee.

The various acts by our Federal Government in this field are too numerous to mention. The following are a few of them:

The Railway Labor Act was passed in 1926 and amended in 1934. In that act the union shop or closed shop is prohibited.

In 1932 the Norris-LaGuardia Anti-Injunction Act was adopted.

In 1938 the Fair Labor Standards Act became effective.

In 1935 the National Labor Relations Act, known as the Wagner Act, was adopted.

In 1947 the Labor Management Relations Act, 1947, known as the Taft-Hartley Act, was adopted.

In each of the above, certain rights that both the employer and employee had were curtailed. Some of these rights were either regulated or entirely taken away.

Prior to the adoption of the Fair Labor Standards Act the question of the wages and hours was purely a matter between the employer and employee. After the adoption of the Act that is no longer true. These rights were taken away from both the employer and employee and neither may contract contrary to the provisions of that Act.

Prior to the adoption of the National Labor Relations Act the right to hire and fire was exclusively in the employer. An employer could hire whomever he wanted and could discharge him at any time without cause, or for any cause. After the adoption of the National Labor Relations Act that right has been limited.

In the case of *Phelps Dodge Corp.* v. *National Labor Relations Board*, 313 U. S. 177, 85 L. Ed. 753, 61 S. Ct. 845, 133 A. L. R. 1217, 1222, Justice Frankfurter, writing the opinion for this court, stated:

> "We have already recognized the power of Congress to deny an employer the freedom to discriminate in discharging. * * * So far as questions of constitutionality are concerned, we need not enlarge on the statement of Judge Learned Hand in his opinion below that there is 'no greater limitation in the denying him (employer) the power to discriminate in hiring than in discharging.' The course of decisions in this Court since Adair v. United States, 208 U. S. 161, 52 L. Ed. 436, 28 S. Ct. 277, 13 Ann. Cas. 764 and Coppage v. Kansas, 236 U. S. 1, 59 L. Ed. 441, 35 S. Ct. 240, L. R. A. 1915 C. 960, have completely sapped those cases of their authority."

In the State of Nebraska similarly many laws were passed which regulated the relationship between the employer and the employee. I refer the court to Chapter

Forty-eight (48) of the Revised Statutes of Nebraska, 1943. In that act an industrial commission may be created to try labor controversies and such a commission has now been created. Hours and conditions of work for women and children are regulated. Hours of labor for motor transport companies have been regulated.

By the exigencies of time and by actual practice the relationship between employer and employee has become and has been recognized to be preeminently public in nature and therefore within the police power of the state.

In the case of *American Federation of Labor* v. *Watson*, 60 Fed. Supp. 1016 (reversed by the Supreme Court of the United States so that the State Court could pass upon the question of the constitutionality of the act), the court held:

> "Labor and labor unions are affected by public interest and are subject to the regulatory power of the states for any reasonable regulation which is not inconsistent with the constitution of the United States and Statutes enacted within the scope designated by the Constitution to the Congress."

The appellants contend that the amendment is unconstitutional because it impairs the obligation of contracts.

In the case of *Long Island Water Supply Company* v. *Brooklyn*, 41 L. Ed. 1165, 175 S. Ct. 718, the court stated:

> "But into all contracts whether made between states and individuals or between individuals only there enter conditions which arise, not out of the literal terms of the contracts itself; they are super-

induced by the pre-existing and higher authority of the laws of nature, of nations or of the community to which the parties belong; they are always presumed, and must be presumed to be known and recognized by all, are binding upon all, and need never therefore, be stipulated."

In *Home Building & Loan Association* v. *Blaisdell*, 78 L. Ed. 255, 88 A. L. R. 1481, the Supreme Court of the United States held:

"The state also continues to possess authority to safeguard the vital interests of its people. It does not matter that such legislation appropriate to that end 'has the result of modifying or abrogating contracts already in effect.'

"* * * Not only are existing laws read into contracts in order to fix obligations between the parties but, the reservation of essential attributes of sovereign power is also read into contrcts as a postulate of the legal order. The policy of protecting contracts against imperiment presupposes the maintenance of a government by virtue of which contractual relations are worthwhile * * * a government which retains adequate authority to secure the peace and good order of society. The principle of harmonizing the Constitutional prohibition with the necessary residuum of state power has had progressive recognition in the decisions of this court."

In the case of *Indiana, ex rel. Anderson* v. *Brand*, 82 L. Ed. 444, 58 S. Ct. 443, 113 A. L. R. 1482, the court stated:

"Our decisions recognize that every contract is made subject to the implied conditions that its fulfillment may be frustrated by a proper exercise of the police power;"

Also, in the case of *Union Dry Goods Company* v. *Georgia Public Service Corporation*, 63 L. Ed. 309, 39 S. Ct. 117, the court held:

> "That private contract rights must yield to the public welfare where the latter is appropriately declared and defined and the two conflict, has been often decided by this court."

In the case of *Manigault* v. *Springs*, 50 L. Ed. 274, 26 S. Ct. 127, the court stated:

> "Its the settled law of this court that the interdiction of statutes impairing the obligation of contracts does not prevent the state from (properly) exercising such powers * * * for the general good of the public, though contracts previously entered into by individuals may thereby be affected."

In *Atlantic Coast Line* v. *Goldsboro*, 58 L. Ed. 721, 34 S. Ct. 364, the court declared:

> "It is settled that neither the 'contract' clause nor the 'due process' clause has the effect of overriding the power of the state to establish all regulations that are reasonably necessary to secure the health, safety, good order, comfort, or general welfare of the community; that the power can neither be abdicated nor bargained away and is inalienable even by express grant; and that all contract and property rights are held subject to its fair exercise."

In the more recent case of *East New York Savings Bank* v. *Hahn*, 90 L. Ed. 9, 66 S. Ct. 69, 160 A. L. R. 1279, the court summarized and set forth these principles in the following language:

> "The formal mode of reasoning by means of which this 'protective power of the state' is acknowedged

is of little moment. It may be treated as an implied condition of every contract and, as such as much a part of the contract as though it were written into it, whereby the States' exercise of its power enforces, and does not impair, a contract. A more candid statement is to recognize as was said in Manigault v. Springs, supra, that the power, 'which in its various ramifications is known as the police power, is an exercise of the sovereign right of the government to protect the * * * general welfare of the people and is paramount to any rights under contracts between individuals.' Once we are in this domain of the reserve power of a State we must respect the 'wide discretion on the part of the legislature in determining what is and what is not necessary.' So far as the constitutional issue is concerned, the power of the State when otherwise justified is not diminished because a private contract may be affected."

The Supreme Court of the United States, in *West Coast Hotel* v. *Parrish*, 81 L. Ed. 445, 57 S. Ct. 578, 108 A. L. R. 1330, stated this rule very cogently:

"This power under the constitution to restrict freedom of contract has had many illustrations. That it may be exercised in the public interest with respect to contracts between employer and employee is undeniable."

It seems clear therefore that in recent years our courts have almost unanimously held that where the public welfare is concerned, the state, under its police power, has the right to enact any law which will reasonably protect the public welfare, and it may in doing so affect existing contracts between individuals without violating the "contract" clause nor the "due process" clause of the Federal Constitution. The courts have gone so far as to

hold that this police power of the state is implied in every contract.

In the case of *Hudson County Water* v. *McCarter*, 52 L. Ed. 828, 28 S. Ct. 529, the court stated:

> "One whose rights such as they are, are subject to state restrictions cannot remove them from the power of the state by making a contract about them."

It is evident that parties cannot deprive the state of its police power simply by making a contract between themselves. Since this power of the state to pass legislation which may affect existing contracts is implied in every contract drawn, then we must read the contract between the Lincoln Federal Labor Union and the Northwestern Iron and Metal Company as if it actually provided that this contract between the parties is subject to any legislation which the state may adopt under its police power. With such a clause implied in the contract the constitutional amendment in question not only does not abrogate the existing contract but is actually a part of it. The constitutional amendment being a part of the contract between the parties, cannot, therefore, violate any provision of the Federal Constitution, nor can it deprive the plaintiffs of any right guaranteed to them by the Federal Constitution.

The Constitutional Provision of the Nebraska Constitution Under Attack is for the Purpose of Regulating Employer and Employee Relationships, and is Not a Prohibition of Union Activities.

The appellants in their brief admit that employer and employee relationship is subject to regulation, but claim

that this constitutional amendment is not regulation, but prohibition, and that it goes farther than necessary to achieve the objective. I believe that the appellants have lost sight of the objective. Throughout their entire brief and in the economic brief that they have filed they extol the virtues of the union and argue vigorously that this amendment will destroy the union. This reasoning is wholly fallacious. The constitutional amendment does not deprive the union of its existence, does not prevent the union from organizing as such, does not prevent the union to bargain collectively, if it meets the requirements of the Taft-Hartley Act. The only objective of the amendment under attack is to prevent discrimination in the hiring and discharging of employees. As is set out in Section 1 of the amendment, the only objective was to eliminate in this state the practice of denying employment "because of membership in or affiliation with, or resignation or expulsion from a labor organization." This is the objective of the amendment. This is what it clearly states. It does not go further than the objective. It does not destroy or prohibit unions.

In 31 C. J. S., Section 16, page 530, we find the following:

> "The evil which the legislature intended to correct in framing a constitutional amendment or a statute is judicially noticed where the knowledge thereof is derived from a consideration of various prior public history or common knowledge."

Many cases are there cited approving the above.

The above rule of law was followed by the Supreme Court of Nebraska in *Redell* v. *Moores, et al.*, 63 Neb. 219, 88 N. W. 243, wherein the court stated:

"In the construction of a statute courts will take judicial notice of events which are generally known and matters of common knowledge within the limits of their jurisdiction."

The above was quoted with approval in the case of *State* v. *Bachelor*, 139 Neb. 253, 297 N. W. 138.

Thus the court, taking judicial notice of the objective of the amendment, and what the people expected to accomplish by its adoption, must come to the conclusion that the amendment is not broader than the objective, but that the amendment is the objective. That the amendment does not prohibit the existence of unions.

The Constitutional Provision of the Nebraska Constitution Under Attack is Not Arbitrary Nor is it Capricious, but is a Reasonable Exercise of the Police Power of the State.

We admit that a state cannot, under the guise of its police power, pass arbitrary or unreasonable legislation. Is this amendment under attack so unreasonable and so arbitrary that it must be declared violative of the Federal Constitution?

The right to work and earn a livelihood is almost an inalienable right, at least it is so in this country. A person's qualifications and a right to earn a livelihood should not depend upon his race, his creed, his color, or his joining any private organization, nor should he be deprived of his right to work if he does join a private organization, such as a union.

Prior to 1935, when some employers discharged employees for their activities in a union and this practice

became so widespread that it was affecting the welfare of the nation, the National Labor Relations Act was passed which contained the provision that the discharge of an employee by reason of his union activity was an unfair labor practice. This provision was retained in the Taft-Hartley Act. By the provisions in the National Labor Relations Act the legal right of the employer to discharge an employee for his union activities, which right the employer previously had was taken away from him. Since that time the pendulum has swung the other way and many employees were either denied employment or were discharged because they did not belong to a union and the discharge of such employees has become a major public concern. That this practice has become of great public concern is evident by the fourteen states that have adopted similar legislation either by constitutional amendments or by legislative enactment. No one can deny that the question of the right to work with or without joining a union is of supreme public importance and has a great effect upon the economy and welfare of the state and nation. This amendment adopted by the people of the State of Nebraska attempts to prevent discrimination against employees who do not belong to such private organizations. To remedy that situation the State of Nebraska adopted the constitutional amendment making that practice in this state unlawful.

When is a law or consitutional amendment so unreasonable that it must be declared unconstitutional? The Supreme Court of the United States, in the case of *Gundling* v. *Chicago*, 177 U. S. 183, 44 L. Ed. 725, 20 S. Ct. 633, in dealing with court interference with the operation of a regulative statute, stated:

"Unless the regulations are so utterly unreasonable and extravagant in their matter and purpose that the property and personal rights of the citizens are unnecessary, and in a manner wholly arbitrary, interfered with, or destroyed without 'due process of law' they do not extend beyond the power of the state to pass, and they form no subject for federal interference."

No organization, public or private, should have the right to say who shall work and who shall not work. The constitutional amendment carries into effect a man's inalienable right to work without let or hindrance, subject only to such regulations which are necessary for the preservation of the state and subject only to the health and welfare of the state.

In the case of *Home Building & Loan Association* v. *Blaisdell*, 78 L. Ed. 255, 88 A. L. R. 1481, Chief Justice Hughes stated:

"It is manifest from this review of our decisions that there has been a growing appreciation of public needs and of the necessity of finding ground for a rational compromise between individual rights and public welfare. The settlement and consequent contradiction of the public domain, the pressure of a constantly increasing density of population, the interrelation of the activities of our people and the complexity of our economic interests, have inevitably led to an increased use of the organization of society in order to protect the very basis of individual opportunity. Where, in earlier days, it was thought that only the concerns of individuals or of classes were involved, and that those of the State itself were touched only remotely, it has later been found that the fundamental interests of the State are directly affected; and that the question is no longer merely

that of one party to a contract as against another but of the use of reasonable means to safeguard the economic structure upon which the good of all depends.

"It is no answer to say that this public need was not apprehended a century ago, or to insist that what the provision of the Constitution meant to the vision of that day it must mean to the vision of our time. If by the statement that what the Constitution meant at the time of its adoption it means today, it is intended to say that the great clauses of the Constitution must be confined to the interpretation which the framers, with the conditions and outlook of their time, would have placed upon them, the statement carries its own refutation. It was to guard against such a narrow conception that Chief Justice Marshall uttered the memorable warning - - 'We must never forget that it is a *Constitution* we are expounding' (M'-579, 601) - - 'a constitution intended to endure for ages to come, and, consequently to be adapted to the various crises of human affairs.' Id., p. 415. When we are dealing with the words of the constitution, said this Court in Missouri v. Holland, 252 U. S. 416, 433, 64 L. Ed. 641, 647, 40 S. Ct. 382, 11 A. L. R. 984, 'we must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. * * * The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago.'

"Nor is it helpful to attempt to draw a fine distinction between the intended meaning of the words of the Constitution and their intended application. When we consider the contract clause and the decisions which have expounded it in harmony with the essential reserved power of the States to protect the security of their peoples, we find no warrant for

the conclusion that the clause has been warped by these decisions from its proper significance or that the founders of our Government would have interpreted the clause differently had they had occasion to assume that responsibility in the conditions of the later day. The vast body of law which has been developed was unknown to the fathers but it is believed to have preserved the essential content and the spirit of the Constitution. With a growing recognition of public security, the court has sought to prevent the perversion of the clause through its use as an instrument to throttle the capacity of the States to protect their fundamental interests. This development is a growth from the seeds which the fathers planted. It is a development forecast by the prophetic words of Justice Johnson in Ogden v. Saunders, already quoted. And the germs of the later decisions are found in the early cases of the Charles River Bridge v. Warren Bridge, 11 Pet. 420, 9 L. Ed. 773, and the West River Bridge Co. v. Dix, 6 How. 507, 12 L. Ed. 535, Supra, which upheld the public right against strong insistence upon the contract clause. The principle of this development is, as we have seen, that the reservation of the reasonable exercise of the protective power of the State is read into all contracts."

This court cannot, and I am sure will not, concern itself with the political and economic wisdom of the constitutional amendment under attack. The people of the State of Nebraska, after considerable debate, decided that this amendment was necessary for the best interest of the state. The people of this state voted in favor of this amendment and adopted it. They have a right to experiment and attempt to find solutions for such problems that vex them.

If in the future the act does not solve the problem, again the people may, by vote, repeal the constitutional amendment. This power is within the people. Taking full cognizance of the present economic conditions, of the great need for a law to prevent discrimination in the field of employee and employer relationship, keeping in mind that this relationship between employer and employee is of great interest to the state, which represents all of the people, employer-employee relationship is a subject for state regulation. Therefore, it comes within the police power of the state, and being within the police power does not contravene any part of the Constitution of the United States.

I have read the one hundred and eighteen (118) pages of the brief filed by the appellants and the economic brief filed in support thereof. I think that the forepart of this brief fully answers practically all of the issues and objections to the amendment raised by the appellants.

It seems that the theme of the entire appellants' brief is that the constitutional amendment has taken away from the union one of its potent weapons which the union uses to obtain its objective, and that this weakens the power of the union. The appellants, it seems to me, have overlooked one prime factor, and that is, that in the economic struggle between the employer and the employee, as organized groups, or as individuals, there is a third party who has a stake in that struggle. The third party is the state, which represents the people. It seems to me that the issue is not the effect of the amendment on the union, but rather the need of the amendment to protect the welfare of the people of the state. That is completely overooked in the appellants' brief. In the forepart of my brief, I think I have fully demonstrated that point.

The appellants spend another considerable portion of their brief on the theory that although they admit that regulation of the union is within the province of the state, they claim that this amendment is not regulation but prohibition. Again I say they overlook, or rather place too narrow a construction on the amendment. It is the purpose of the state to regulate one part of the employer and employee relationship, and in that regulation, unions as well as employers are prohibited from refusing employment on the grounds of belonging or not belonging to a union; and employers are further prohibited from discharging members if they cease to be members of a union.

It seems to me that this is only a regulation. It does not prohibit unions, it does not prohibit collective bargaining, it does not prohibit meetings, free speech or assembly. All regulation takes away some rights that those who are being regulated had prior to such regulation. Before the advent of the automobile people had the right to travel on the highway at any speed they chose. After the automobile became the common mode of travel, speed laws were enacted which deprived the people of that right. They can no longer travel at any speed they desire, but have to limit themselves to the speed designated by the municipality or state. The automobile also made it necessary to enact parking laws. It prohibited people from parking vehicles in certain localities.

The zoning laws prohibited people from using their property as they saw fit, but they had to comply with the zoning requirements which prohibited certain businesses or certain use of the property in certain localities. This is not a prohibition, but a regulation.

Prior to the Fair Labor Standards Act, the employer was at liberty to set the wages and hours of employment. That act prohibited the employer from so doing. That is not a prohibition, but a regulation.

I could multiply these examples, but I think the above are sufficient to show that what the appellants claim is prohibition, is not prohibition but merely regulation in which certain acts are prohibited.

The appellants cite many cases which hold that the so-called union shop or union security agreements, had been held valid. Certainly that question is not an issue in this case. Nobody denies the validity of such contracts, if they are not prohibited by statute or constitution. However, a state has the right, within its police power, and within its right to regulate the relationship of employer and employee, to make such provisions of a contract unenforcible. This right of the state was fully recognized by the Congress of the United States in the passing of the Labor Management Relations Act of 1947, commonly known as the Taft-Hartley Law, wherein it provided in Section 101 (14) (b):

> "Nothing in this act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which execution or application is prohibited, by State or Territorial Law."

It seems to me that the cases cited and the arguments made as to the legality of the so-called union shop or union security agreements does not support the issue before the court, and is wholly irrelevant.

It will greatly prolong this brief should I attempt to analyze each one of the cases cited by the appellants in support of their argument. Many of the cases, as I already have pointed out, are not in point and the holdings in those cases are irrelevant to the issues involved. The other cases, I believe, tend to support the contention of the appellees that the constitutional amendment adopted by the people of the State of Nebraska, is in all respects valid, and does not in any way violate any part of the Constitution of the United States. I believe the Supreme Court of the United States, in the case of *Nebbia* v. *New York*, 291 U. S. 502, 78 L. Ed. 563, 89 A. L. R. 1469, 1474, forcefully answers most of the arguments made by the appellants in the following words:

> "Under our form of government the use of property and the making of contracts are normally matters of private and not of public concern. The general rule is that both shall be free of governmental interference. *But neither property rights nor contract rights are absolute; for government cannot exist if the citizen may at will use his property to the detriment of his fellows, or exercise his freedom of contract to work them harm. Equally fundamental with the private right is that of the public to regulate it in the common interest.* As Chief Justice Marshall said, speaking specifically of inspection laws, such laws form 'a portion of that immense mass of legislation, which embraces everything within the territory of a state, * * * all which can be most advantageously exercised by the states themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal Commerce of a state * * * are component parts of this mass.' Justice Barbour said for this court: '* * * It is not only the right, but the bounden and solemn duty of a state, to advance the

safety, happiness, and prosperity of its people, and to provide for its general welfare, by any and every act of legislation, which it may deem to be conductive to these ends; where the power over the particular subject, or the manner of its exercise is not surrendered or restrained, in the manner just stated. That all those powers which relate to merely municipal legislation, or what may, perhaps more properly be called "Internal Police," are not thus surrendered or restrained; and that consequently, in relation to these, the authority of a state is complete, unqualified, and exclusive.' And Chief Justice Taney said upon the same subject: '*But what are the police powers of a state? They are nothing more or less than the powers of government inherent in every sovereignty to the extent of its dominions.* And whether a state passes a quarantine law, or a law to punish offenses, or to establish courts of justice, or requiring certain instruments to be recorded, or to regulate commerce within its own limits in every case it exercises the same power; that is to say, the power of sovereignty, the power to govern men and things within the limits of its dominion. It is by virtue of this power that it legislates; and its authority to make regulations of commerce is as absolute as its power to pass health laws, except insofar as it has been restricted by the Constitution of the United States.' Thus has this court from the early days affirmed that the power to promote the general welfare is inherent in government. Touching the matters committed to it by the Constitution the United States possesses the power, as do the states in their sovereign capacity touching all subjects jurisdiction of which is not surrendered to the Federal Government, as shown by the quotations above given. These correlative rights, that of the citizen to exercise exclusive dominion over property and freely to contract about his affairs, and that of the state to regulate the use of property and the con-

duct of business, are always in collision. No exercise of the private right can be imagined, which will not in some respect, however slight, affect the public; no exercise of the legislative prerogative to regulate the conduct of the citizen which will not to some extent abridge his liberty or affect his property. But subject only to constitutional restraint the private right must yield to the public need.

"*The Fifth Amendment, in the field of Federal activity, and the fourteenth as respects State action, do not prohibit governmental regulation for the public welfare.* They merely condition the exertion of the admitted power, by securing that the end shall be accomplished by methods consistent with due process. And the guaranty of due process, as had often been held, demands only that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained." (Emphasis supplied.)

The basic question in this litigation is not new. It has been a subject for discussion and litigation since the adoption of the Federal Constitution. That question is how to maintain the rights of the states and the rights of our Federal Government, each in its particular sphere, without clashing with each other. Where each sphere begins and ends has been many times decided by this court in particular cases before it. No permanent yardstick can ever be made in a viril society, but the decision must be made in the time and on the facts at hand.

Justice Frankfurter, in his dissenting opinion in the case of *West Virginia State Board of Education* v. *Barnett*, 319 U. S. 624, sets out this problem very succinctly in the following words:

"The whole Court is conscious that this case reaches ultimate questions of judicial power and its relation to our scheme of government. It is appropriate, therefore, to recall an utterance as wise as any that I know in analyzing what is really involved when the theory of this Court's function is put to the test of practice. The analysis is that of James Bradley Thayer:

"* * * There has developed a vast and growing increase of judicial interference with legislation. This is a very different state of things from what our fathers contemplated a century and more ago, in framing the new system, would this great, novel, tremendous, power of the courts be exerted, * * * would this sacred ark of the covenant be taken from within the veil. Marshall himself expressed truly one aspect of the matter, when he said in one of the later years of his life: 'No questions can be brought before a judicial tribunal of greater delicacy than those which involve the constitutionality of legislative acts. If they become indispensably necessary to the case, the court must meet and decide them; but if the case may be determined on other grounds, a just respect for the legislature requires that the obligation of its laws should not be unnecessarily and wantonly assailed.' And again, a little earlier than this, he laid down the one true rule of duty for the courts. When he went to Philadelphia at the end of September, in 1831, on that pamful errand of which I have spoken in answering a cordial tribute from the bar of that city he remarked that if he might be permitted to claim for himself and his asspciates any part of the kind things they had said, it would be this, that they had 'never sought to enlarge the judicial power beyond its proper bounds, nor feared to carry it to the fullest extent that duty required.'

"That is the safe two fold rule; nor is the first part of it any whit less important than the second; nay, more; today it is the part which most requires to be emphasized. For just here comes in a consideration of the very great weight. Great and, indeed, inestimable as are the advantages in a popular government of this conservative influence, * * * the power of the judiciary to disregard unconstitutional legislation,—it should be remembered that the exercise of it, even when unavoidable, is always attended with a serious evil, namely, that the correction of legislative mistakes comes from the outside, and the people thus lose the political experience, and the moral education and stimulus that come from fighting the question out in the ordinary way and correcting their own errors. If the decision in Munn v. Illinois and the 'Granger Cases,' twenty-five years ago; and in the 'Legal Tender Cases,' nearly thirty years ago, had been different; and the legislation there in question, thought by many to be unconstitutional and by many more to be ill-advised, had been set aside, we should have been saved more trouble and some harm. But I venture to think that the good which came to the country and its people from the vigorous thinking that had to be done in the political debates that followed, from the infiltration through every part of the population of sound ideas, elements, the enlargement of ideas, the strengthening of moral fibre, and the growth of political experience that came out of it all,—that all this far more than outweighed any evil which ever flowed from the refusal of the court to interfere with the work of the legislature.

"The tendency of a common and easy resort to this great function now lamentably too common, is to dwarf the political capacity of the people, and to deaden its sense of moral responsibility. It is no light thing to do that.

"What can be done? It is the courts that can do most to cure the evil; and the opportunity is a very great one. Let them resolutely adhere to first principles. Let them consider how narrow is the function which the constitutions have conferred on them—the office merely of deciding litigated cases; how large, therefore, is the duty intrusted to others, and above all to the legislature. It is that body which is charged, primarily, with the duty of judging of the constitutionality of its work. The constitutions generally give them no authority to call upon a court for advice; they must decide for themselves, and the courts may never be able to say a word. Such a body, charged in every State, with almost all the legislative power of the people, is entitled to the most entire and real respect; is entitled, as among all rationally permissible opinions as to what the constitution allows, to its own choice. Courts, as has often been said, are not to think of the legislators, but of the legislature—the great, continuous body itself, abstracted from all the transitory individuals who may happen to hold its power. It is this majestic representative of the people whose action is in question, a coordinate department of the government, charged with the greatest functions, and invested, in contemplation of law, with whatsoever wisdom, virtue, and knowledge the exercise of such functions requires.

"*To set aside the acts of such a body, representing in its own field, which is the very highest of all, the ultimate sovereign, should be a solemn, unusual and painful act.* Something is wrong when it can ever be other than that. And if it be true that the holders of legislative power are careless of evil, yet the constitutional duty of the court remains untouched; it cannot rightly attempt to protect the people, by undertaking a function not its own. On the other hand, by adhering rigidly to its own duty, the court will

help, as nothing else can, to fix the spot where responsibility lies, and to bring down on that precise locality the thunderbolt of popular condemnation. The judiciary, today, in dealing with the acts of their coordinate legislators, owe to the country no greater or clearer duty than that of keeping their hands off these acts wherever it is possible to do it. For that course—the true course of judicial duty always—will powerfully help to bring the people and their representatives to a sense of their own responsibility. There will still remain to the judiciary an ample field for the determination of this remarkable jurisdiction, of which our American law has so much reason to be proud; a jurisdiction which has had some of its chief illustrations and its greatest triumphs, as in Marshall's time, so in ours while the courts were refusing to exercise it." (J. B. Thayer, John Marshall, (1901) 104-10)'" (Emphasis supplied.)

CONCLUSION.

We believe that in the forepart of this brief we have fully demonstrated that Sections 13, 14 and 15, Article XV of the Constitution of the State of Nebraska, does not violate any of the rights granted to the appellants under the First and Fourteenth Amendments to the Constitution of the United States. That it does not deny to the appellants the right of free speech and free press, the right to organize, or the right to collective bargaining. That the above sections of the Constitution of the State of Nebraska are not contrary to any part of the Constitution of the United States. That the above sections of the Constitution of the State of Nebraska are in all respects valid and binding.

We respectfully urge that this court declare that Sections 13, 14, and 15 of the Constitution of the State of Nebraska are valid and constitutional, and that the judgment of the Supreme Court of the State of Nebraska be affirmed.

Respectfully submitted.

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